



**TOWN OF WEARE**  
**PLANNING BOARD**  
**ZONING BOARD OF ADJUSTMENT**  
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Land Use Coordinator

**Office Hours:**  
Monday  
thru  
Friday  
8 AM – 4:30 PM

**ZONING BOARD OF ADJUSTMENT**  
**MINUTES**  
**SEPTEMBER 1, 2009**  
**(Approved as amended 10/6/09)**

**PRESENT:** Jack Dearborn, Vice Chairman; David Ruoff; June Purington; Forrest Esenwine; Neal Kurk, Alternate; Elwood Stagakis, Alternate (arrived at 7:45 PM); Naomi L. Bolton, Land Use Coordinator.

**GUESTS:** Art Siciliano, LLS; Matt Grolljahn; Lisa Grolljahn; Ginger Esenwine; Doug Hatch; Joan Hatch; Linda Chatfield; Genevieve Lofaro; Darrin Lofaro

**I. INTRODUCTION:**

Vice Chairman Dearborn called this meeting to order at 7:30 PM and asked the board members present to introduce themselves. Vice Chairman Dearborn explained to those present the way by which the board conducts business.

**II. ADMINISTRATIVE ITEMS:**

There were no administrative items to take up at this time. Vice Chairman Dearborn appointed Neal Kurk as a voting member for tonight.

**III. PUBLIC HEARINGS:**

Case #00909 Mark & Joyce Lanier (Continued Hearing)  
Variance, Article 28, Section 28.9

The applicant is requesting permission to construct a shared driveway through the 25' wetland buffer.

Tax Map 403-159

Concord Stage Road (Rt. 77)

Art Siciliano was present. Mr. Siciliano explained that he does not have the engineering plans for tonight. Last month he showed a driveway in a different location from this plan. They still have two crossings. He has been to the Conservation Commission. He met last week with the Planning Board. They have scheduled a site walk for September 10<sup>th</sup> at 5:30 PM and he would like to invite the Zoning Board. He is requesting this board goes to the site walk in an effort to have a better understanding of what they are trying to do. Vice Chairman Dearborn stated that as of this point tonight he doesn't have any further information. Neal Kurk stated that there has been at least one additional factor from last month. The Conservation Commission has written up their comments in objection to it. Mr. Kurk asked if the house was existing or to be built. Mr. Siciliano stated that the house already exists today. Mr. Kurk asked if this property was purchased

before or after the 25' buffer. Mr. Siciliano stated they purchased it after the article was approved, but they might not have known about the regulation, nor did they know how much wetlands existed on the property. Vice Chairman Dearborn urged the members to attend the site walk. Neal Kurk moved to continue this hearing to October 6, 2009; David Ruoff seconded the motion, all in favor. Vice Chairman Dearborn closed this hearing at 7:47 PM.

June Purington excused herself from the next hearing. Vice Chairman Dearborn appointed Elwood Stagakis as a voting member for the next hearing.

Case #1009 Matthew & Lisa Grolljahn

Variance, Articles 18.2.2 & 18.2.3

The applicant is requesting permission to construct an addition that extends into the front and side setback.

Tax Map 407-180

33 Sawyer Road

Vice Chairman Dearborn asked if the board members feel this is a completed application before we proceed. The board agreed it was complete. David Ruoff moved to accept the application as complete; Elwood Stagakis seconded the motion, all in favor. Matt & Lisa Grolljahn were present. Mr. Grolljahn explained that they are here seeking relief to allow them to put on a 28' x 26' two car garage with an addition above it for their growing family. Vice Chairman Dearborn clarified that they are looking for relaxation of 12 feet to the side setback and 6.5' from the front setback. Mr. Grolljahn went through the five points of hardship as follows:

1. That there will not be a diminution of value surrounding properties as a result of the granting of this variance because: In our non-professional opinion it will not diminish any surrounding property values. An addition will increase the value of our home and allow a little more space for our young growing family.
2. That the granting of the variance will not be contrary to the public interest because: it does not affect the public. The addition is to be used by us for our own use; therefore no public interest would be affected by approval of this request.
3. That enforcement of the zoning ordinance will create an unnecessary hardship in that the zoning restriction:
  - aa. An area variance is needed to enable the applicants proposed use of the property given the special conditions of the property because: We are building a garage at the top of our drive. We cannot move it further from the road due to well placement. We cannot move it further from the property line due to house and septic placement.
  - bb. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance because: See above – due to property layout. The septic and well are existing. The house has existed since 1988 in the same location. To move the proposed addition to the other side would be very costly. The driveway exists and the layout of the house has an existing entry way,

by moving it to the other side of the house would mean the whole house would have to be rearranged to create an access into the addition.

4. That through the granting of relief by variance substantial justice will be done because: We will be able to use our property as needed. The abutting lot is currently vacant and contains a lot of trees as a buffer.
5. The use, for which the variance is requested, will not be contrary to the spirit of the ordinance because: This is a hardship. We cannot build a garage in any other area due to property layout.

Neal Kurk asked if they could draw exactly where the septic system area is in front of the house. Mr. Grolljahn pointed out the location. Mr. Grolljahn stated that they have a newly approved septic design from the State for the addition. Naomi got the approved septic design from the property file for the board to review. Mr. Kurk stated that the information he has gotten from this new septic design plan is that the existing system is about 30' from the house which would allow them readily driving across the front lawn to be able to put the addition on the other side of the house without needing a variance.

Mr. Siciliano stated that the other side of the house has some drop off to the property, which would in turn require a tremendous amount of fill. The back also drops off to a wetland stream, which they would then need a variance from the wetland buffer article.

Vice Chairman Dearborn stated that what we have is an application for a plan for an addition for what he feels is a heavily challenged lot. Forrest Esenwine stated that he understands the situation and the challenge of the lot is the location of the existing house. He personally is of a mind that the addition does need not be as large as that. The size could be reduced to make the encroachment less.

Vice Chairman Dearborn then asked for:

Approving Abutters: None

Disapproving Abutters: None

Other Boards: None

Public At Large: Art Siciliano stated that he felt that if you look at the lot and you try to put a driveway across the front between the front steps and the septic system could be considered diminishing to their property value.

Rebuttal of applicant: Lisa Grolljahn stated that they would not be opposed to a 26' x 26' addition and would prefer it over a 24' x 26', but if the board feels the need to reduce it they would take what they can be granted by the board. Mrs. Grolljahn stated that 26 would be better than 24 feet for the future, but she would just like the addition.

DISCUSSION: Vice Chairman Dearborn stated that the applicant would concede to 26' x 26' addition. Mr. Kurk stated that if the applicant is changing the application verbally that is what we are voting for, so is the board looking at the 26' x 26' or 24' x 26' addition. Mrs. Grolljahn stated that they wish to do the 24' x 26' addition.

CASE DISCUSSION: Point #1: David Ruoff moved to accept point #1; Elwood Stagakis seconded the motion. Vote: 5 in favor (Kurk; Stagakis; Dearborn; Esenwine and Ruoff) Point #2: David Ruoff moved to accept point #2; Forrest Esenwine seconded the motion. Vote: 5 in favor (Kurk; Stagakis; Dearborn; Esenwine and Ruoff). Point #3aa: David Ruoff moved to accept point #3aa; Elwood Stagakis seconded the motion. Discussion: Neal Kurk stated that as much as he can see the applicant's personal needs he doesn't see any reason for doing this. The other side of the house is not desirable. There is nothing about the property that would prohibit this. He would vote no. Forrest Esenwine stated that he thinks Mr. Kurk's point is well taken but he doesn't agree it would be necessary to move it to the other side. David Ruoff stated that he thinks the special conditions of the property needs to be considered. The board should look at what is manmade or on the ground. If you start imposing all the conditions, as Mr. Siciliano indicated there are issues that he felt should be looked at in consideration of each lot. Vice Chairman Dearborn stated again that he feels this lot is highly challenged. They have an established septic system and well and there is a sensitive brook in the back. This has been tested to see if there is an alternative. There may be a technical alternative but is it reasonable. Vote: 2 in favor (Dearborn and Ruoff); and 3 opposed (Kurk, Elwood and Esenwine). Point #3bb: David Ruoff moved to accept point #3bb; Elwood Stagakis seconded the motion. Vote: 3 in favor (Dearborn; Esenwine and Ruoff) and 2 opposed (Kurk and Stagakis). Point #4: David Ruoff moved to accept point #4; Forrest Esenwine seconded the motion. Vote: 5 in favor (Kurk; Stagakis; Dearborn; Esenwine and Ruoff). Point #5: David Ruoff moved to accept point #5; Forrest Esenwine seconded the motion. Vote: 5 in favor (Kurk; Stagakis; Dearborn; Esenwine and Ruoff). David Ruoff moved to grant the variance as amended to encroach no further than 8' into the side setback and the front setback as shown on the plan; Forrest Esenwine seconded the motion. Discussion: Elwood Stagakis stated that we had this issue before and he is unsure how to vote. Vice Chairman Dearborn explained that the only way to rectify the problem is to reconsider a vote on point #3aa, if someone chooses to do so. Forrest Esenwine made a motion to reconsider the vote on point #3aa; Neal Kurk seconded the motion to reconsider. Vote on reconsideration: 5 in favor (Kurk; Stagakis; Dearborn; Esenwine and Ruoff). Point #3aa: David Ruoff moved to accept point #3aa; Forrest Esenwine seconded the motion. Vote: 4 in favor (Stagakis; Dearborn; Esenwine and Ruoff) and 1 opposed (Kurk). David Ruoff moved to grant the variance for the addition to encroach no further than 8' into the side setback and 6.5' into the front setback as indicated on the plan; Forrest Esenwine seconded the motion. Vote: 4 in favor (Stagakis; Dearborn; Esenwine and Ruoff) and 1 opposed (Kurk). Vice Chairman Dearborn closed this hearing at 8:55 PM.

June Purington returned to the board and Elwood Stagakis returned as an alternate member.

Case #1109 Arthur Siciliano (Owner: N. John Paquette)  
Variance, Article 6.1.7

The applicant is requesting permission to proceed and allow the building of a single family home on this lot as was originally granted.

Tax Map 107-014

33 Sawyer Road

The board began reviewing the application. Naomi explained that upon verbal advice from Town Counsel Art Siciliano was to fill out paperwork for Article 6.1.7, the two year exemption section versus article 17.1.1. Naomi also handed the board a letter from Carl Knapp, Public Works Director stating that work had began on the road this past spring and summer. The board asked Mr. Siciliano why he didn't apply for the building permit or did he get turned down from Chip Meany, Code Enforcement Officer. Mr. Siciliano responded he just thought he would apply. He hasn't even talked to Mr. Meany yet. The article reads that the variance will become void if active and substantial development has not begun, it doesn't say that the permit needs to be issued. With that explanation, Mr. Siciliano stated that he would like to withdraw this application at this point and go see Mr. Meany. The board accepted the withdrawal.

#### **IV. OTHER BUSINESS:**

JULY 7, 2009 MINUTES: Forrest Esenwine moved to approve the July 7, 2009 minutes as distributed; David Ruoff seconded the motion, all in favor.

AUGUST 4, 2009 MINUTES: Forrest Esenwine moved to approve the August 4, 2009 minutes as distributed; David Ruoff seconded the motion, all in favor.

CASE #0809 – REQUEST FOR RE-HEARING ROBERT MOORE: Naomi gave Vice Chairman Dearborn a letter from Carl Knapp, Public Works Director which read: "I went out and inspected Jewett Road as a request from Mr. Moore relative to his variance rehearing request. If the variance was granted the following road work would be required: a) Jewett Road would need to be upgraded 20' wide with crushed gravel the length of the road, 50' beyond the driveway entrance; b) all the brush would need to be trimmed; c) installation of proper drainage including ditches and water turnouts as needed. The above upgrade would need to be done prior to any building permit being issued and then a final inspection would be done prior to occupancy. If you have any further questions, please feel free to give me a call. Thanks, Carl S. Knapp, Public Works Director." Vice Chairman Dearborn stated that there is new information from the Public Works Director. Tonight's vote is limited to the vote to re-hear based on any new information brought before the board, and is this new information enough to warrant a rehearing. Neal Kurk stated that he felt the board should not rehear it because he didn't bring all the new information for all the points that were not successful. David Ruoff stated that he felt this information could have been obtained before the last hearing. New information is found evidence that wasn't available at the last hearing or some unfound information as a result of the prior hearing. David Ruoff moved to grant the request for a rehearing; Forrest Esenwine seconded the motion. Vote: 2 in favor (Purington and Dearborn) and 3 opposed (Kurk; Esenwine and Ruoff).

PROCEDURE: David Ruoff stated that he would like to get some written information from Town Counsel as to his conclusion of filing for a variance for article 6.1.7. Mr. Ruoff thinks that it is jurisdictional and he is not sure we can grant a variance to that.

**V. ADJOURNMENT:**

As there was no further business to come before the board, David Ruoff moved to adjourn the meeting at 9:45 PM; Forrest Esenwine seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton  
Land Use Coordinator